Remarks

Claims 1-7, 10, 11, 14, 15, 17 and 18 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-7, 10, 11, 14, 15-18 of co-pending Application No. 10/033,338 in view of Razavilar et al. (US2003/0104831). The office action appears to be using Razavilar as a prior art reference under 35 U.S.C. §102(e). Applicants respectfully submit that Razavilar does not qualify as a prior art reference under 35 U.S.C. §102(e). Under 35 U.S.C. §102(e), a person is not entitled to a patent if the invention was described in an application for patent, published under 122(b), by another filed in the United States before the invention by the applicant for patent. Razavilar does not qualify as a prior art reference under 35 U.S.C. §102(e) because it was not described in an application for patent by another filed in the United States before the invention by the applicants. (underline added for emphasis) Razavilar has a filing date of November 30, 2001. The invention by the applicants was invented prior to November, 2001. A Declaration Under Rule 1.131 is being submitted in support thereof. Accordingly, it is felt that claims 1-7, 10, 11, 14, 15, 17 and 18 are patentable and should not have been provisionally rejected on the ground of non-statutory obviousness-type double patenting over claims 1-7, 10, 11, 14, 15-18 of co-pending Application No. 10/033,338 in view of Razavilar.

Claim 1, 2, 4, 10, 11, 15 and 16 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 5-7, 9-11, 16 and 17 of U.S. Patent No. 6,915,477. A terminal disclaimer is being submitted disclaiming the terminal part of any U.S. patent to be granted on application Serial No. 10/033,339 that extends beyond the expiration date of U.S. Patent No. 6,915,477.

The specification was objected to because of certain informalities. Specifically, the office action stated that the blank spaces in the related

applications section should be removed and the serial/patent numbers of the related applications should be inserted. Appropriate correction has been made.

Claims 1, 2, 4, 10, 15, 16 and 19 were rejected under 35 U.S.C. §102(e) as being anticipated by Razavilar. For the reasons discussed earlier, Razavilar does not qualify as a prior art reference 35 U.S.C. §102(e). Accordingly, it is felt that claims 1, 2, 4, 10, 15, 16 and 19 are patentable under 35 U.S.C. §102(e).

Claims 7 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Razavilar further in view of Sindhushayana et al (US Pub. 2004/0202196). The office action appears to be using Razavilar as a prior art reference under 35 U.S.C. §102(e). For the reasons discussed earlier, Razavilar does not qualify as a prior art reference 35 U.S.C. §102(e). Accordingly, it is felt that claims 7 and 20 are patentable under 35 U.S.C. §103(a).

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Razavilar further in view of Engstrom et al (US Patent 6,639,934). The office action appears to be using Razavilar as a prior art reference under 35 U.S.C. §102(e). For the reasons discussed earlier, Razavilar does not qualify as a prior art reference 35 U.S.C. §102(e). Accordingly, it is felt that claims 7 and 20 are patentable under 35 U.S.C. §103(a).

Claims 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Razavilar further in view of Shibutani (US Pub. 20042/0193133). The office action appears to be using Razavilar as a prior art reference under 35 U.S.C. §102(e). For the reasons discussed earlier, Razavilar does not qualify as a prior art reference 35 U.S.C. §102(e). Accordingly, it is felt that claims 17 and 18 are patentable under 35 U.S.C. §103(a).

Claims 3, 5, 6, 8, 9 and 12-14 were objected to as being dependent upon a rejected base claim, but would have been allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Claims 3, 5, 6, 8, 9 and 12-14 depend upon, and include all the limitations of, claim 1. For the aforementioned reasons, it is felt that claim 1 is patentable under 35 U.S.C. §102(e) and §103(a). Accordingly, it is felt that claims 3, 5, 6, 8, 9 and 12-14 are allowable in their present form.

By _____

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Att.
37 CFR 1.131 Declaration with Exhibits A, B, C
Terminal Disclaimer

Date: **14 August 2006**

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